

section or to do any other act in violation of any of the other prohibitions hereof, shall be deemed guilty of a misdemeanor.

(Code 1961, § 11.7)

DIVISION 3. PROHIBITION ON THE SALE OF SATURDAY NIGHT SPECIALS, ALSO KNOWN AS JUNK GUNS

Sec. 15-40. Title, purpose and definitions.

This division shall be known as the "City of Belmont Saturday Night Special/Junk Gun Sales Prohibition" and may be so cited. Its purpose is to ensure the health, safety, and general welfare of City of Belmont citizens by eliminating the sale of cheaply made, inadequately designed and poorly manufactured handguns in the City of Belmont. Except as provided in section 15-41 herein, the term "Saturday Night Special," as used in this section shall mean any of the following:

(a) A pistol, revolver or firearm capable of being concealed upon the person, as those terms are defined in the California Penal Code Section 12001(a), which contains a frame, barrel breech block, cylinder or slide that is not completely fabricated of heat treated carbon steel, forged alloy or other material of equal or higher tensile strength.

(b) A semiautomatic pistol which:

- (1) Is not originally equipped by the manufacturer with a locked-breech action.
- (2) Is chambered for cartridges developing maximum permissible breech pressures above twenty-four thousand one hundred (24,100) copper units of pressure as standardized by the Sporting Arms and Ammunition Manufacturers Institute.
- (3) For purpose of this subsection (b), "semiautomatic pistol" shall mean a firearm, as defined in California Penal Code Section 12001(b), which is designed to be held and fired with one (1) hand, and which does the following upon discharge: fires the cartridge in the chamber; ejects the fired cartridge case; and loads a cartridge from the magazine into the chamber. "Semiau-

tomatic pistol" shall not include any assault weapons designated in California Penal Code Section 12276.

(c) A pistol, revolver, or firearm capable of being concealed upon the person, as those terms are defined in California Penal Code Section 12001(a), which:

- (1) Uses an action mechanism which is substantially identical in design to any action mechanism manufactured in or before 1898 that was originally chambered for rimfire ammunition developing maximum safe permissible breech pressures below nineteen thousand (19,000) copper units of pressure as standardized by the Sporting Arms and Ammunition Manufacturers Institute; and
- (2) Is chambered to fire either center fire ammunition or rimfire ammunition developing maximum permissible breech pressures above nineteen thousand (19,000) copper units of pressure as standardized by the Sporting Arms and Ammunition Manufacturers Institute; and
- (3) Is not originally equipped by the manufacturer with a nondetachable trigger guard; or
- (4) If rimfire, is equipped with a barrel of less than twenty (20) bore diameters in overall length protruding from the frame.
- (5) For purposes of this subsection (c), "action mechanism" shall mean the mechanism of a firearm by which it is loaded, locked, fired and unloaded commonly known as the cycle of operation.

(Ord. No. 908, § 1, 8-13-96)

Sec. 15-41. Exclusions.

The term "Saturday Night Special" does not include any of the following:

(a) Any pistol which is an antique or relic firearm or other weapon falling within the specifications of paragraphs (5), (7) and (8) of subsection (b) of California Penal Code Section 12020.

(b) Any pistol for which the propelling force is classified as pneumatic, that is, of, or related to, compressed air or any other gases not directly produced by combustion.

(c) Children's pop guns or toys.

(d) An "unconventional pistol" as defined in California Penal Code Section 12020(c)(12).

(e) Any pistol which has been modified to either render it permanently inoperable, or permanently to make it a device no longer classified as a Saturday Night Special.

(Ord. No. 908, § 1, 8-13-96)

Sec. 15-42. Roster of Saturday night specials and notifications.

On or before January 1, 1997, the chief of police or his/her designee shall compile, publish and thereafter maintain a roster of Saturday Night Specials. The roster shall list those firearms, by manufacturer and model number, which the chief of police or his/her designee determines fit the definition of Saturday Night Special set forth in section 15-41. Upon completion of a list of firearms to be placed on the roster for the first time, the police chief or his/her designee shall endeavor to send written notification to the manufacturer of every firearm on said list, and every dealer within the city who is licensed to sell and transfer firearms pursuant to section 12071 of the Penal Code of the State of California.

(a) Identify the model number of the firearm which has been classified as a Saturday Night Special within the meaning of section 15-41 of the Municipal Code; and

(b) Advise the recipient that the recipient may apply for reconsideration of the classification of the firearm as a Saturday Night Special; and

(c) Advise the recipient that the burden of proving a firearm does not constitute a Saturday Night Special within the meaning of section 15-41 of the Municipal Code shall be on the recipient.
(Ord. No. 908, § 1, 8-13-96)

Sec. 15-43. Reconsideration by the chief of police.

(a) The chief of police, or his/her designee, shall, prior to the effective date of this ordinance establish standards and procedures for the form and content of an application, conducting an administrative hearing and evaluating evidentiary testimony relating to the decision of the chief of police or his/her designee to classify the firearm in question as a Saturday Night Special as defined in Municipal Code section 15-41.

(b) Upon timely filing of one (1) or more complete applications for reconsideration, the chief of police or his/her designee shall evaluate the evidence submitted by the applicant(s). The applicant(s) shall have the burden of demonstrating that the firearm does not constitute a Saturday Night Special within the meaning of section 15-41 of the Municipal Code.

(Ord. No. 908, § 1, 8-13-96)

Sec. 15-44. Appeal of classification.

(a) If the chief of police or his/her designee determines that the firearm under reconsideration has been properly classified as a Saturday Night Special, then the applicant(s) shall have the right to appeal such decisions to the city manager, and the applicant(s) shall have the right to a hearing before the city manager or his/her designee prior to inclusion of the firearm in question on the roster.

(b) The city manager, or his/her designee, is authorized to establish standards and procedures for the form and content of an appeal, conducting an administrative hearing and evaluating evidentiary testimony relating to the decision of the chief of police or his/her designee to classify the firearm in question as a Saturday Night Special as defined in Municipal Code section 15-41.

(c) The burden of proof shall be on the applicant(s) to demonstrate that the firearm does not constitute a Saturday Night Special within the meaning of section 15-41 of the Municipal Code.

(d) All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues and to be represented by counsel.

(e) The city manager or his/her designee shall hear and consider all relevant evidence. Upon the conclusion of the hearing, the city manager or his/her designee shall, based on the evidence presented, determine whether the firearm constitutes a Saturday Night Special within the meaning of section 15-41 of the Municipal Code.

(f) In all instances, the decision of the city manager or his/her designee whether to classify the firearm in question as a Saturday Night Special as defined in the Municipal Code section 15-41 and to place said firearm on the roster is final.

(Ord. No. 908, § 1, 8-13-96)

Sec. 15-45. Publication and effective date of the roster.

The chief of police or his/her designee shall place on the roster those firearms which have been determined to constitute a Saturday Night Special within the meaning of section 15-41 of the Municipal Code. The chief of police or his/her designee shall cause the roster to be published in the following manner:

(a) Notification of the roster's completion shall be published at least once in the official newspaper as designated by the city and circulated in the city within fifteen (15) days after its completion; and

(b) A copy of the roster, certified as a true and correct copy thereof, shall be filed in the office of the city clerk of the City of Belmont; and

(c) A copy of the roster, certified as a true and correct copy thereof, shall be distributed to every dealer within the city who is licensed to sell and transfer firearms pursuant to section 12071 of the Penal Code of the State of California;

(d) The roster shall become effective on the fifteenth day after its publication.
(Ord. No. 908, § 1, 8-13-96)

Sec. 15-46. Additions to the roster.

Additions to the roster shall be made in accordance with the following:

(a) *Semiannual determination.* On a semiannual basis, the chief of police or his/her designee

shall determine the need to place firearms on the roster. Upon identifying one (1) or more firearms as a Saturday Night Special, the city manager or his/her designee shall prepare a draft list of the additions to the roster.

(b) *Notification of additions to roster.* In the event that a draft list of firearms to be added to the roster is prepared, the chief of police or his/her designee shall endeavor to send written notification in accordance with the aforementioned provisions of section 15-42.

(c) *Reconsideration by the chief of police.* Any person who the chief of police or his/her designee notifies pursuant to subsection (b) above may apply for reconsideration of the classification of that firearm as a Saturday Night Special in accordance with the provisions of section 15-43.

(d) *Appeal of classification.* Whenever a firearm has been determined to be properly classified as a Saturday Night Special after reconsideration, the applicant may file an appeal to the city manager and the city manager or his/her designee shall hold a hearing in accordance with the provisions of section 15-44.

(e) *Additions of firearms to roster.* After all appeals have been exhausted, the chief of police or his/her designee shall place on the roster these additional firearms which have been determined to constitute a Saturday Night Special within the meaning of section 15-41. The chief of police or his/her designee shall cause the roster, as amended to include these additional firearms, to be published in accordance with section 15-45.

(f) *Effective date of additions to the roster.* The addition of new firearms to the roster shall not operate to preclude the enforcement of the roster with respect to firearms previously listed thereon. The publication of the roster, as amended to include new firearms, shall be effective as to those newly added firearms on the fifteenth day after its publication as set forth in section 15-45.
(Ord. No. 908, § 1, 8-13-96)

Sec. 15-47. Sale prohibited.

After January 1, 1997, no wholesale or retail firearms dealer as licensed by or operating within the City of Belmont shall sell, offer or display for

sale, give, lend or transfer ownership of, any firearm listed on the roster of Saturday Night Specials. This section shall not preclude a whole-sale or retail gun dealer from processing firearm transactions between unlicensed parties pursuant to section 12072(d) of the Penal Code of the State of California.

(Ord. No. 908, § 1, 8-13-96)

Sec. 15-48. Exemptions.

Nothing in this division relative to the sale of Saturday Night Specials shall prohibit the disposition of any firearm by sheriffs, constables, marshals, police officers, of other duly appointed peace officers in the performance of their official duties, nor to persons who are authorized by the United States Federal Government for use in the performance of their official duties; nor shall anything in this division prohibit the use of any firearm by the above mentioned persons in the performance of their official duties.

(Ord. No. 908, § 1, 8-13-96)

Sec. 15-49. Penalty.

Any person violating any of the provisions of this division shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this division shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this division is committed, continued or permitted by such person and shall be punishable accordingly. In addition, a firearms dealer permit of any person found to be in violation of this division shall be subject to suspension and/or revocation.

(Ord. No. 908, § 1, 8-13-96)

Sec. 15-50. Severability and validity.

This division shall be enforced to the full extent of the authority of the City of Belmont. If any section, subsection, paragraph, sentence or word of this division is deemed to be invalid or beyond the authority of the City of Belmont, either on its

face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences or words of this division, and the applications thereof and to that end the section, subsections, paragraphs, sentences and words of this division shall be deemed severable.

(Ord. No. 908, § 1, 8-13-96)